

STATE OF INDIANA
COUNTY OF WABASH

) IN THE WABASH CIRCUIT COURT
) SS:
) MISCELLANEOUS DOCKET
) NO. 85C01-0612-MI-646
)

IN RE: MARK DUBUQUE,)
Individually and doing business as)
BLUE SKY AERIAL PORTRAITS,)
INC.,)
Defendant.)

FILED

MAY 07 2007

Don J. Draper
WABASH CIRCUIT SUPERIOR COURT CLERK

CONSENT JUDGMENT

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Lisa Ward, and the Defendant, Mark Dubuque, individually and doing business as Blue Sky Aerial Portraits, Inc., hereby agree to entry of a Consent Judgment without trial or adjudication of any issue of fact or law herein.

The parties believe it is in their best interest to resolve the issues raised by the State of Indiana. This Consent Judgment does not constitute an admission by the Defendant of any wrongdoing, nor shall it be construed as abandonment by the Attorney General of his position that the Defendant violated Indiana's Deceptive Consumer Sales Act. The parties consent to entry of a final judgment in this proceeding by the Court and accept this Consent Judgment as final on the issues resolved herein.

JURISDICTION

1. This Court has jurisdiction and venue over the subject matter of this action and the parties hereto.
2. The Defendant, Mark Dubuque, is an individual engaged in the business of providing photography services to consumers under the assumed business name Blue

Sky Aerial Portraits, Inc., with a principal place of business located at 104 East Branson, LaFontaine, Indiana.

3. Defendant hereby waives service of process and agrees to entry of final judgment in this matter.

RELIEF ORDERED

4. The Defendant, Mark Dubuque, individually and doing business as Blue Sky Aerial Portraits, Inc., and his agents, representatives, employees, successors, and assigns, are permanently enjoined from making, causing to be made, or permitting to be made, expressly or by implication, the following representations when engaging in consumer transactions:

- a. representing that the subject of a consumer transaction has performance or benefits it does not have, which the Defendant knows or reasonably should know it does not have; and
- b. representing that the Defendant is able to deliver or complete the subject of a consumer transaction within a stated period of time, when the Defendant knows or should reasonably know he can not. If no time period for completion or delivery has been stated by the Defendant, there is a presumption, pursuant to Ind. Code § 24-5-0.5-10, that the Defendant has represented that he will deliver or complete the subject of the consumer transaction within a reasonable time, according to the course of dealing or usage of the trade.

5. The Defendant shall pay the Office of the Attorney General its reasonable costs of investigation, pursuant to Ind. Code § 24-5-0.5-4(c), in the amount of Five Hundred Dollars (\$500.00).

6. Defendant shall pay consumer restitution, pursuant to Ind. Code § 24-5-0.5-4(d) in the amount of Two Thousand Six Hundred Sixty-Two Dollars and Fifty-One Cents (\$2,662.51) to the Office of the Attorney General for the benefit of the following consumers:

- a. Ben Hershberger of Holmesville, Ohio, in the amount of Two Hundred Ninety-Eight Dollars and Ninety Cents (\$298.90);
- b. David Yoder of Millersburg, Ohio, in the amount of One Hundred Seventy-Seven Dollars and Three Cents (\$177.03);
- c. Alice Rowland of Rochester, Indiana, in the amount of Three Hundred Ninety-One Dollars and Fourteen Cents (\$391.14);
- d. Tim Alexander of Winamac, Indiana, in the amount of Four Hundred Sixteen Dollars and Twenty-Three Cents (\$416.23);
- e. Tim Gillum of Syracuse, Indiana, in the amount of Three Hundred Ninety-One Dollars and Fourteen Cents (\$391.14);
- f. Misty Sellers of Rochester, Indiana, in the amount of One Hundred Seventy-Five Dollars (\$175.00);
- g. Steve Moss of Twelve Mile, Indiana, in the amount of Four Hundred Sixteen Dollars and Nine Cents (\$416.09);
- h. Donald Vanhooser of Alexandria, Indiana, in the amount of One Hundred Eighty-Four Dollars and Sixty-Four Cents (\$184.64);

i. Alan and Luan Adams of Anderson, Indiana, in the amount of Two Hundred Twelve Dollars and Thirty-Four Cents (\$212.34); and

j. Sally Cripe of Syracuse, Indiana, in the amount of One Thousand Sixty-Six Dollars (\$1,066.00),

for a total judgment in the amount of Four Thousand Two Hundred Twenty-Eight Dollars and Fifty-One Cents (\$4,228.51).

CONTINUING JURISDICTION

7. For the purpose of enforcing the provisions of this Consent Judgment, the Defendant waives any objection regarding the Court's jurisdiction to punish for contempt and agrees to appear on proper notice of a failure to comply with any of the provisions of this Judgment.

IN WITNESS WHEREOF, the parties have executed this Consent Judgment this

30th day of April, 2007.

STATE OF INDIANA
STEVE CARTER
Attorney General of Indiana

MARK DUBUQUE, individually and
doing business as
BLUE SKY AERIAL PORTRAITS, INC.

by: Lisa Ward
Lisa Ward
Deputy Attorney General
Attorney No. 26140-49

Mark Dubuque
Mark Dubuque

Office of the Attorney General
Indiana Government Center South
5th floor
302 W. Washington Street
Indianapolis, IN 46204
(317) 234-2354

104 East Branson
LaFontaine, IN 46940

ALL OF WHICH IS APPROVED, ORDERED, ADJUDGED AND DECREED

this 7 day of May, 2007

Judge, Wabash Circuit Court

Distribution:

Lisa Ward
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Mark Dubuque
104 East Branson
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